

AO 120 (Rev. 3/04)

<b>TO:</b> <b>Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
filed in the U.S. District Court Northern District of California on the following ☐ Patents or ☒ Trademarks:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
<b>PLAINTIFF</b> <b>AMERICAN AUTOMOBILE ASSOCIATION, INC., a</b> <b>Connecticut corporation</b>		<b>DEFENDANT</b> <b>MOHAMMAD NAJAFPIR, an individual doing business as AAA</b> <b>SMOG TEST ONLY; AAA SMOG TEST ONLY, an entity of</b> <b>unknown form; and DOES 1 through 10, inclusive</b>
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 829,265	May 23, 1967	The American Automobile Association (Incorporated)
2 2,158,654	May 19, 1998	American Automobile Association, Inc.
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY		
	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

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ATTORNEYS FOR Plaintiff AMERICAN AUTOMOBILE ASSOCIATION, INC.

E-filing

ORIGINAL  
FILED  
07 NOV 13 AM 9:22  
CLERK: U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MHP

AMERICAN AUTOMOBILE ASSOCIATION, INC., a  
Connecticut corporation,

Plaintiff(s)

v.

MOHAMMAD NAJAFPIR an individual doing business as  
AAA SMOG TEST ONLY; AAA SMOG TEST ONLY  
CENTER, an entity of unknown form; and DOES 1 through  
10, Inclusive,

Defendant(s).

CASE NUMBER

CV 07

5720

CERTIFICATION AND NOTICE  
OF INTERESTED PARTIES

TO: THE COURT AND ALL PARTIES APPEARING OF RECORD:

The undersigned, counsel of record for AMERICAN AUTOMOBILE ASSOCIATION, INC.  
(or party appearing in pro per), certifies that the following listed party (or parties) has (have) a direct, pecuniary  
interest in the outcome of this case. These representations are made to enable the Court to evaluate possible  
disqualification or recusal. (Use additional sheet if necessary.)

PARTY

CONNECTION

(List the names of all such parties and identify their connection and interest.)

AMERICAN AUTOMOBILE ASSOCIATION, INC.  
MOHAMMAD NAJAFPIR  
AAA SMOG TEST ONLY

PLAINTIFF  
DEFENDANT  
DEFENDANT

RUTAN & TUCKER, LLP

Date November 6, 2007

By

Ako s. Williams  
Ako s. Williams

Attorneys for Plaintiff AMERICAN AUTOMOBILE  
ASSOCIATION, INC.

Attorney of record for or party appearing in pro per

United States District Court  
NORTHERN DISTRICT OF CALIFORNIA

E-filing

AMERICAN AUTOMOBILE ASSOCIATION, INC., a  
Connecticut corporation

**SUMMONS IN A CIVIL CASE**

CASE NUMBER:

**MHP**

**v.**  
MOHAMMAD NAJAFPIR, an individual doing business as  
AAA SMOG TEST ONLY; AAA SMOG TEST ONLY, an  
entity of unknown form; and DOES 1 through 10, Inclusive

**CV 07**

**5720**

TO: (Name and address of defendant)

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Ako S. Williams

RUTAN & TUCKER, LLP

611 Anton Blvd., Ste. 1400

Costa Mesa, CA 92626

an answer to the complaint which is herewith served upon you, within \_\_\_\_\_ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Richard W. Wieking

CLERK

DATE NOV 13 2007

\_\_\_\_\_  
(BY) DEPUTY CLERK

## DATE \_\_\_\_\_

Name of SERVER

TITLE

TRAVEL

## SERVICES

TOTAL

Executed on

Date \_\_\_\_\_

*Signature of Server*

Address of Server

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6 Attorneys for Plaintiff  
 AMERICAN AUTOMOBILE ASSOCIATION,  
 7 INC.

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN FRANCISCO DIVISION

11 AMERICAN AUTOMOBILE  
 ASSOCIATION, INC., a Connecticut  
 12 corporation,

13 Plaintiff,

14 vs.

15 MOHAMMAD NAJAFPIR, an  
 individual doing business as AAA  
 16 SMOG TEST ONLY; AAA SMOG  
 TEST ONLY, an entity of unknown  
 17 form; and DOES 1 through 10, Inclusive,

18 Defendants.

CASE NO.

**CV 07 5720**  
 COMPLAINT FOR:

1. **FEDERAL SERVICE MARK INFRINGEMENT [15 U.S.C. § 1114(1)(a) AND (b)];**
2. **FALSE DESIGNATION OF ORIGIN [15 U.S.C. § 1125(a)];**
3. **TRADE NAME OR SERVICE MARK DILUTION [15 U.S.C. § 1125(c)(1)];**
4. **INJURY TO BUSINESS REPUTATION AND DILUTION [CAL. BUS. & PROF. CODE § 14330];**
5. **UNFAIR AND DECEPTIVE TRADE PRACTICES [CAL. BUS. & PROF. CODE § 17000 *et seq.*];**  
**AND**
6. **COMMON LAW UNFAIR COMPETITION AND TRADEMARK INFRINGEMENT**

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1 Plaintiff American Automobile Association, Inc. (hereinafter "Plaintiff"), for  
2 its complaint against the above-named defendants, alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has jurisdiction under 28 U.S.C. section 1338(a) as this  
5 action arises under the Lanham Act, 15 U.S.C. sections 1114, 1125(a), and  
6 1125(c)(1) as well as under pendent jurisdiction under 28 U.S.C. section 1367.

7 2. This Court also has jurisdiction under 28 U.S.C. section 1332 because  
8 Plaintiff and defendants are citizens of different states, and the matter in controversy  
9 exceeds \$75,000, exclusive of interest and costs.

10 3. Venue is proper in the Northern District of California under 28 U.S.C.  
11 section 1391(b) and (c) because defendants reside in this judicial district, as defined  
12 in § 1391(c), a substantial part of the events, omissions and acts which are the  
13 subject matter of this action occurred within the Northern District of California, and  
14 Defendants are subject to personal jurisdiction and may be found in this district.

15 **INTRADISTRICT ASSIGNMENT**

16 4. Pursuant to Civil L.R. 3-2(c) and General Order No. 44, assignment of  
17 this case to the San Francisco Division is proper because this is an Intellectual  
18 Property case involving federally registered trademarks.

19 **PARTIES**

20 5. Plaintiff is a corporation organized and existing under the laws of the  
21 State of Connecticut, located and doing business at 1000 AAA Drive, Heathrow,  
22 Florida.

23 6. On information and belief, defendant Mohammad Najafpir ("Najafpir")  
24 is an individual residing in this judicial district and doing business as AAA Smog  
25 Test Only.

26 7. On information and belief, defendant AAA Smog Test Only is an entity  
27 of unknown form with its principal place of business at 869 California Drive,  
28 Burlingame, California.

8. On information and belief, Plaintiff alleges that each of the defendants named herein as Does 1 through 10, inclusive, performed, participated in, or abetted in some manner, the acts alleged herein, proximately caused the damages alleged below, and are liable to Plaintiff for the damages and relief sought herein.

9. On information and belief, Plaintiff alleges that, in performing the acts and omissions alleged herein, and at all times relevant hereto, each of the defendants was the agent and employee of each of the other defendants and was at all times acting within the course and scope of such agency and employment with the knowledge and approval of each of the other defendants.

10. The identities of the individuals and entities named as Doe defendants herein are not presently known, but Plaintiff will seek to amend the Complaint to properly identify them when their proper names have been ascertained.

#### **NATURE OF THE CASE**

11. Plaintiff seeks injunctive relief, damages, attorneys' fees, and costs against defendants for service mark infringement under 15 U.S.C. section 1114(1)(a) and (b); false designation of origin and/or sponsorship under 15 U.S.C. section 1125(a); dilution under 15 U.S.C. section 1125(c); injury to business reputation and dilution under California Business and Professions Code section 14330; unfair and deceptive trade practices under California Business and Professions Code sections 17000 *et seq.*; and common law palming off, trademark and trade name infringement, and unfair competition.

#### **FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

12. Plaintiff is the owner of the famous AAA mark, U.S. service mark registration No. 829,265, used in connection with a number of services, including but not limited to conducting motor vehicle tests in International Class 42. A copy of this registration is attached hereto as Exhibit 1.

13. Plaintiff is the owner of the famous AAA mark (stylized logo), U.S. service mark registration No. 2,158,654, used in connection with a number of



1 services, including but not limited to conducting motor vehicle tests in International  
2 Class 42. A copy of this registration is attached hereto as Exhibit 2.

3 14. Plaintiff is the owner of numerous other famous registered trademarks  
4 incorporating the AAA mark in the United States and throughout the world.

5 15. Plaintiff has been serving motorists under the AAA mark of  
6 Registration No. 829,265 for more than 100 years.

7 16. Plaintiff, by virtue of the services offered under its AAA marks, is  
8 recognized throughout the world as a provider of motor vehicle testing services.

9 17. On information and belief, at all relevant times hereto, defendants have  
10 been and are in the business of automobile smog testing service using the AAA  
11 marks. On information and belief, defendants use the AAA marks in conducting  
12 and promoting their business, including, without limitation, by prominently  
13 displaying trade names incorporating the AAA marks on their business premises, in  
14 their signage, in their stationery, in telephone and online directory listings, and in  
15 various other marketing materials. A true and correct copy of a sample of  
16 defendants' advertisement incorporating the AAA marks is attached hereto as  
17 Exhibit 3.

18 18. On or about September 12, 2007, Plaintiff sent a cease and desist letter  
19 to defendants Najafpir and AAA Smog Test Only, giving notice of Plaintiff's  
20 ownership of federally registered service marks and demanding that they  
21 immediately cease and desist from all uses of the AAA mark in connection with  
22 their goods and services. Najafpir and AAA Smog Test Only responded to this  
23 letter and expressed their unwillingness to cease and desist from all uses of the AAA  
24 marks in connection with their goods and services.

25 19. On or about October 8, 2007, Plaintiff's outside counsel sent a second  
26 cease and desist letter to Najafpir, again giving notice of Plaintiff's ownership of  
27 federally registered service marks and demanding that they immediately cease and  
28 desist from all uses of the AAA marks in connection with their goods and services.



1 Najafpir received this letter on October 9, 2007, but ignored Plaintiff's demands.

2 20. On information and belief, defendants continue their unauthorized use  
3 of the AAA marks.

#### 4 **FIRST CLAIM FOR RELIEF**

##### 5 **(Federal Service Mark Infringement – 15 U.S.C. § 1114(1)(a) and (b))**

6 21. Plaintiff repeats and incorporates herein by reference each and every  
7 allegation contained in Paragraphs 1 through 20 above, inclusive, as though fully set  
8 forth herein.

9 22. Plaintiff is the owner of a number of federal trademark and service  
10 mark registrations that incorporate the AAA mark and specifically asserts ownership  
11 of the following:

12 <u>Registration No.</u>	<u>Mark</u>	<u>Date of Registration</u>
13 829,265	AAA	May 23, 1967
14 2,158,654	AAA (stylized logo)	May 19, 1998

15 23. Plaintiff first used the AAA mark of registration No. 829,265 in  
16 connection with conducting motor vehicle tests at least as early as 1903 and has  
17 continued and expanded use thereof up to the present. Thus, long before the acts  
18 complained of herein, motorists and members of the general consumer population in  
19 the United States and across the world have recognized the AAA mark as an  
20 exclusive source identifier for motor vehicle testing services originating from  
21 Plaintiff. The registration for the AAA mark is incontestable under section 15 of the  
22 Lanham Act, 15 U.S.C. section 1065, and it constitutes conclusive evidence of  
23 Plaintiff's exclusive right to use the AAA mark in connection with motor vehicle  
24 testing services.

25 24. Plaintiff first used the AAA mark (stylized logo) of registration No.  
26 2,158,654 in connection with conducting motor vehicle tests at least as early as  
27 March 1, 1997, and has continued and expanded use thereof up to the present. Thus,  
28 long before the acts complained of herein, motorists and members of the general

1 consumer population in the United States and across the world have recognized the  
2 AAA mark (stylized logo) as an exclusive source identifier for motor vehicle testing  
3 services originating from Plaintiff. The registration for the AAA mark (stylized  
4 logo) is incontestable under section 15 of the Lanham Act, 15 U.S.C. section 1065,  
5 and it constitutes conclusive evidence of Plaintiff's exclusive right to use the AAA  
6 mark (stylized logo) in connection with motor vehicle testing services.

7 25. Plaintiff's registered service marks identified above are valid and  
8 subsisting and remain in full force and effect as evidence of the validity thereof and  
9 Plaintiff's ownership of the marks in connection with the services specified in the  
10 registration.

11 26. As a result of the long period of use and extensive advertisement and  
12 sale of services under the AAA and AAA (stylized logo) marks, motorists and  
13 members of the general consumer population in the United States and across the  
14 world recognize the AAA and AAA (stylized logo) marks as exclusive source  
15 identifiers for motor vehicle testing services originating from Plaintiff.

16 27. Defendants' use of the AAA marks in interstate commerce in  
17 connection with their goods and services is causing and will continue to cause a  
18 likelihood of confusion, mistake, and deception with respect to: (a) the source and  
19 origin of the goods and services offered by defendants; (b) the affiliation,  
20 connection, and association of Plaintiff with defendants; and (c) Plaintiff's  
21 sponsorship, approval, and/or control of the goods and services offered by  
22 defendants, all in violation of the Lanham Act, 15 U.S.C. section 1114(1)(a) and (b).

23 28. On information and belief, defendants are now committing the acts  
24 complained of above and have continued to do so in defiance of Plaintiff's requests  
25 that they cease such acts.

26 29. Defendants' acts and conduct constitute federal service mark  
27 infringement that has caused and, unless restrained and enjoined by this Court, will  
28 continue to cause a likelihood of consumer confusion, mistake, and deception.

1       30. On information and belief, defendants' acts of service mark  
2 infringement in violation of the Lanham Act have caused financial injury and  
3 damages to Plaintiff and have been willful, making this an exceptional case within  
4 the meaning of the Lanham Act, 15 U.S.C. section 1117, thereby entitling Plaintiff  
5 to damages, attorneys' fees, and costs.

6       31. Plaintiff is entitled to damages as a result of defendants' actions and  
7 conduct and, because such damages alone do not provide Plaintiff with an adequate  
8 remedy at law, Plaintiff is also entitled to injunctive relief.

9                               **SECOND CLAIM FOR RELIEF**

10       **(Unfair Competition by False Designation of Origin – 15 U.S.C. § 1125(a))**

11       32. Plaintiff repeats and incorporates herein by reference each and every  
12 allegation contained in Paragraphs 1 through 31 above, inclusive, as though fully set  
13 forth herein.

14       33. Defendants, either independently or through collaboration with one  
15 another, are using the AAA marks in connection with their goods and services.

16       34. On information and belief, defendants use the AAA marks in  
17 commerce, which use has been done with the deliberate intent of capitalizing and  
18 trading on the good will and reputation of Plaintiff.

19       35. The use in commerce of the AAA marks by defendants will tend to  
20 cause and, on information and belief, has caused the relevant public and trade to  
21 believe erroneously that defendants' services are associated, authorized, sponsored,  
22 or controlled by Plaintiff.

23       36. Defendants' use in commerce of the AAA marks in connection with  
24 their goods and services constitutes a false designation of the origin and/or  
25 sponsorship of such goods and services and falsely describes and represents such  
26 goods and services.

27       37. By their acts as alleged herein, defendants have falsely designated and  
28 represented goods and services sold in commerce in violation of 15 U.S.C. section

1 1125(a) and have otherwise used the good will of Plaintiff to sell defendants' own  
2 goods and services and have otherwise competed unfairly with Plaintiff.

3 38. On information and belief, defendants are now committing the acts  
4 complained of above and have continued to do so in defiance of Plaintiff's request  
5 that they cease such acts.

6 39. Defendants, after due notice, have displayed a willful course of conduct  
7 toward appropriation and destruction of Plaintiff's rights in and to the AAA marks.

8 40. Defendants' wrongful acts and conduct as alleged herein have  
9 permitted or will permit them to generate substantial sales and profits on the  
10 strength of Plaintiff's substantial advertising, sales, consumer recognition, and good  
11 will in connection with the AAA marks.

12 41. As a result of defendants' wrongful acts alleged herein, Plaintiff has  
13 suffered and will continue to suffer monetary damage in an amount not thus far  
14 determined.

15 42. On information and belief, defendants' acts of unfair competition by  
16 false designation of origin in violation of the Lanham Act have caused financial  
17 injury and damages to Plaintiff and have been willful, making this an exceptional  
18 case within the meaning of the Lanham Act, 15 U.S.C. section 1117, thereby  
19 entitling Plaintiff to damages, attorneys' fees, and costs.

20 43. Defendants' acts and conduct constitute unfair competition that has  
21 caused and, unless restrained and enjoined by this Court, will continue to cause  
22 irreparable harm, damage, and injury to Plaintiff's good will and business  
23 reputation.

24 44. Plaintiff is entitled to damages as a result of defendants' actions and  
25 conduct and, because such damages alone do not provide Plaintiff with an adequate  
26 remedy at law, Plaintiff is entitled to injunctive relief.

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**THIRD CLAIM FOR RELIEF**

**(Trade Name or Service Mark Dilution – 15 U.S.C. § 1125(c)(1))**

45. Plaintiff repeats and incorporates herein by reference each and every allegation contained in Paragraphs 1 through 44 above, inclusive, as though fully set forth herein.

46. Plaintiff's AAA trade name and service marks were used in commerce long before defendants' adoption and use of AAA marks in connection with their goods and services.

47. Plaintiff's AAA trade name and service marks have become famous because of long, extensive, continuous, and exclusive use by Plaintiff in connection with motor vehicle testing services, such fame occurring long before defendants' adoption and use of the AAA marks in connection with their goods and services.

48. Defendants use the AAA marks in promoting their goods and services in the same trade areas and channels of trade in which Plaintiff's AAA trade name and service marks are recognized and famous.

49. On information and belief, defendants' use of the AAA marks has lessened the capacity of Plaintiff's famous AAA trade name and service marks to identify and distinguish Plaintiff's goods and services.

50. Defendants' acts and conduct as alleged herein have tarnished the reputation and recognition of Plaintiff's famous AAA trade name and service marks by the low quality of defendants' goods and services.

51. On information and belief, defendants' acts of trade name or service mark dilution in violation of the Lanham Act have caused financial injury and damages to Plaintiff and have been willful, making this an exceptional case within the meaning of the Lanham Act, 15 U.S.C. section 1117, thereby entitling Plaintiff to damages, attorneys' fees, and costs.

52. Plaintiff has no adequate remedy at law and is being irreparably damaged by dilution of its famous mark, in violation of 15 U.S.C. section 1125(c).

1 Therefore, Plaintiff is entitled to injunctive relief.

2 **FOURTH CLAIM FOR RELIEF**

3 **(Injury to Business Reputation and Dilution –**

4 **Cal. Bus. & Prof. Code § 14330)**

5 53. Plaintiff repeats and incorporates herein by reference each and every  
6 allegation contained in Paragraphs 1 through 52 above, inclusive, as though fully set  
7 forth herein.

8 54. Plaintiff is the owner of marks that are distinctive and famous in the  
9 State of California.

10 55. On information and belief, defendants have used and continue to use  
11 the famous AAA marks after the marks became famous, which use dilutes the  
12 distinctive quality of Plaintiff's marks.

13 56. On information and belief, defendants' actions described herein were  
14 taken and continue to be taken with full knowledge that such actions would and do  
15 dilute the AAA marks and with the intention to cause dilution of the marks.

16 57. As a result of the actions described herein, defendants have caused, and  
17 unless restrained and enjoined by this Court, will continue to cause irreparable harm,  
18 damage, and injury to Plaintiff, including but not limited to injury to Plaintiff's good  
19 will and business reputation.

20 58. Plaintiff has no adequate remedy at law and is being irreparably  
21 damaged by defendants' acts in violation of California Business & Professions Code  
22 section 14330.

23 **FIFTH CLAIM FOR RELIEF**

24 **(Unfair and Deceptive Trade Practices –**

25 **Cal. Bus. & Prof. Code § 17000 *et seq.*)**

26 59. Plaintiff repeats and incorporates herein by reference each and every  
27 allegation contained in Paragraphs 1 through 58 above, inclusive, as though fully set  
28 forth herein.

1       60. The acts and practices of defendants as alleged herein violate the  
2 California Uniform Unfair and Deceptive Trade Practices Act, California Business  
3 & Professions Code section 17000 *et seq.*, because (a) the actions and conduct of  
4 defendants cause a likelihood of consumer confusion or misunderstanding as to the  
5 source, sponsorship, approval, or certification of services, (b) the actions and  
6 conduct of defendants cause a likelihood of consumer confusion or  
7 misunderstanding as to affiliation, connection, or association with or certification by  
8 another, and (c) the actions and conduct of defendants create other likelihood of  
9 consumer confusion or misunderstanding.

10       61. The acts and practices of defendants as alleged herein significantly  
11 threaten or harm consumers.

12       62. Defendants' acts have caused damage to Plaintiff, including incidental  
13 and general damages, lost profits, and out-of-pocket expenses.

14       63. Defendants have profited and in the future will profit unjustly from  
15 their unjust business practices. Accordingly, pursuant to Business and Professions  
16 Code section 17203, Plaintiff seeks an award representing the amount of ill-gotten  
17 gains that must be disgorged by defendants. Defendants should therefore be  
18 required to disgorge and restore to Plaintiff all profits and other expenses as may be  
19 incurred by Plaintiff.

20       64. As a result of the acts alleged herein, defendants have caused, and  
21 unless restrained and enjoined by this Court, will continue to cause irreparable harm,  
22 damage, and injury to Plaintiff, including but not limited to injury to Plaintiff's good  
23 will and business reputation. Plaintiff therefore has no adequate remedy at law and  
24 is also entitled to injunctive relief.

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**SIXTH CLAIM FOR RELIEF**

**(Common Law Palming Off, Trade Name and Trademark Infringement,  
and Unfair Competition)**

65. Plaintiff repeats and incorporates herein by reference each and every allegation contained in Paragraphs 1 through 64 above, inclusive, as though fully set forth herein.

66. Defendants' actions and conduct as alleged herein constitute palming off their services as Plaintiff's services offered under the famous AAA marks.

67. Such actions and conduct by defendants constitute unfair competition under California common law.

68. Defendants' actions and conduct in adopting and using the AAA marks in California constitute trademark infringement under California common law.

69. Defendants have caused and, unless restrained and enjoined by this Court, will continue to cause irreparable harm, damage, and injury to Plaintiff, including but not limited to injury to Plaintiff's good will and business reputation.

70. Plaintiff has no adequate remedy at law, and Plaintiff is being irreparably damaged by defendants' acts in violation of California common law, entitling Plaintiff to injunctive relief.

71. Defendants' actions and conduct as alleged herein are malicious and fraudulent and entitle Plaintiff to punitive damages under Civil Code section 3294.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for an order and judgment against defendants, and each of them, as follows:

1. That defendants, and each of them, their officers, directors, partners, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through or under them, and any others within their control or supervision, and all others in active concert or participation with the above, be enjoined during the pendency of this action and permanently thereafter from using the designation

1 “AAA” or any other name or mark incorporating Plaintiff’s service marks, either  
2 alone or in combination with other words or symbols, in the marketing, sales,  
3 distribution, promotion, advertising, identification, or in any other manner in  
4 connection with any motor vehicle testing services and other related services at any  
5 locality in the United States;

6 2. That defendants, and each of them, their officers, directors, partners,  
7 agents, servants, employees, attorneys, confederates, and all persons acting for,  
8 with, by, through or under them, and any others within their control or supervision,  
9 and all others in active concert or participation with the above, be enjoined during  
10 the pendency of this action and permanently thereafter from using the designation  
11 “AAA” or any other name or mark incorporating Plaintiff’s service marks in any  
12 form or manner that would tend to identify or associate defendants’ businesses or  
13 services with Plaintiff in the marketing, sale, distribution, promotion, advertising,  
14 identification, or in any other manner in connection with any business;

15 3. That defendants, and each of them, their officers, directors, partners,  
16 agents, servants, employees, attorneys, confederates, and all persons acting for,  
17 with, by, through or under them, and any others within their control or supervision,  
18 and all others in active concert or participation with the above, be enjoined during  
19 the pendency of this action and permanently thereafter from referring to their  
20 businesses as “triple A” (either orally or in writing) in the marketing, sale,  
21 distribution, promotion, advertising, identification, or in any other manner in  
22 connection with any business;

23 4. That defendants, and each of them, their officers, directors, partners,  
24 agents, servants, employees, attorneys, confederates, and all persons acting for,  
25 with, by, through or under them, and any others within their control or supervision,  
26 and all others in active concert or participation with the above, be enjoined during  
27 the pendency of this action and permanently thereafter from representing to anyone  
28 (either orally or in writing) that their businesses are affiliated with Plaintiff in any

1 way or is an AAA agent or contractor unless their businesses are approved by  
2 Plaintiff to be an AAA agent or contractor;

3 5. For an order requiring defendants to deliver to Plaintiff's attorney  
4 within thirty (30) days after the entry of any preliminary or permanent injunction, to  
5 be impounded or destroyed by Plaintiff, all literature, signs, labels, prints, packages,  
6 wrappers, containers, advertising materials, stationery, and any other items in their  
7 possession or control that contain the infringing designation "AAA" or any other  
8 name or mark incorporating Plaintiff's service marks, either alone or in combination  
9 with other words and symbols;

10 6. For an order requiring defendants to remove from their business  
11 premises within thirty (30) days after the entry of any preliminary or permanent  
12 injunction, all instances of the "AAA" designation, and to destroy all molds, plates,  
13 masters, or means of creating the infringing items;

14 7. For an order requiring defendants to instruct, within thirty (30) days  
15 after the entry of any preliminary or permanent injunction, any print directory,  
16 Internet directory, or website that they have caused to carry the AAA mark,  
17 including, without limitation, any reference to their fictitious business names  
18 containing the "AAA" designation or other infringing designation, to cease using  
19 such names at the earliest possible date;

20 8. For an order requiring defendants to cancel all fictitious name  
21 registrations and licenses of any type that consist of or were issued to an entity with  
22 the "AAA" designation in its name;

23 9. For an order requiring defendants to file with the Clerk of this Court  
24 and serve Plaintiff, within thirty (30) days after the entry of any preliminary or  
25 permanent injunction, a report in writing, under oath, setting forth in detail the  
26 manner and form in which defendants have complied with 1 through 8 above;

27 10. For an order requiring defendants to account for all profits made by  
28 defendants and to hold all such profits in constructive trust for the benefit of

1 Plaintiff;

2 11. For an award of defendants' profits and Plaintiff's damages in an  
3 amount not yet ascertained but believed to exceed \$500,000;

4 12. For an award of three times Plaintiff's damages or defendants' profits  
5 in view of the intentional and willful nature of defendants' acts, pursuant to 15  
6 U.S.C. section 1117;

7 13. For an award of punitive damages according to proof;

8 14. For an award of reasonable attorneys' fees under 15 U.S.C.  
9 section 1117;

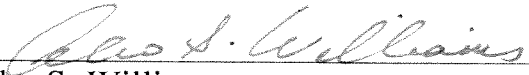
10 15. For an award of pre- and post-judgment interest at the highest rate  
11 allowed by law;

12 16. For an award of costs and disbursements incurred in this action; and

13 17. For such further relief as this Court shall deem just and proper.  
14

15 Dated: November 6, 2007

RUTAN & TUCKER, LLP  
MICHAEL T. HORNAK  
AKO S. WILLIAMS

17 By:   
18 Ako S. Williams  
19 Attorneys for Plaintiff  
20 AMERICAN AUTOMOBILE  
ASSOCIATION, INC.  
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# United States Patent Office

829,265

Registered May 23, 1967

## PRINCIPAL REGISTER Service Mark

Ser. No. 230,991, filed Oct. 22, 1965

AAA

The American Automobile Association (Incorporated)  
(Connecticut corporation)  
1712 G St. NW.  
Washington, D.C. 20006

For: AUTOMOBILE ASSOCIATION SERVICES RENDERED TO MOTOR VEHICLE OWNERS, MOTORISTS, AND TRAVELERS GENERALLY—NAMES, OBTAINING MOTOR VEHICLE LICENSE PLATES AND TITLE CERTIFICATES; SPONSORING SCHOOL SAFETY PATROLS; ADVOCATING LEGISLATION FAVORABLE TO SAFE AND ECONOMICAL MOTOR VEHICLE TRAVEL, OPERATION, AND MAINTENANCE; CONDUCTING MOTOR VEHICLE TESTS AND MAKING TESTS OF AUTOMOTIVE AND RELATED PRODUCTS; AND RATING TOURIST ACCOMMODATIONS—in CLASS 100.

First use 1903; in commerce 1903.

For: ARRANGING FOR DISCOUNT PURCHASES, COLLECTING DAMAGE CLAIMS; OFFERING REWARDS FOR INFORMATION LEADING TO AR-

REST AND CONVICTION OF PERSONS STEALING MEMBERS' AUTOMOBILES; AND PLACING INSURANCE WITH UNDERWRITERS, in CLASS 101.

First use 1916; in commerce 1916.

For: PROVIDING BAIL BOND, in CLASS 102.

First use 1916; in commerce 1916.

For: PROVIDING EMERGENCY ROAD SERVICE, in CLASS 103.

First use 1916; in commerce 1916.

For: DISSEMINATING TRAVEL INFORMATION AND MAKING TRAVEL ARRANGEMENTS, in CLASS 105.

First use 1902; in commerce 1902.

For: TEACHING MOTOR VEHICLE OPERATION; CONDUCTING TRAFFIC AND PEDESTRIAN SAFETY CAMPAIGNS, AND GIVING TRAFFIC SAFETY LESSONS, in CLASS 107.

First use 1924; in commerce 1924.

Owner of Reg. Nos. 547,321 and 703,556.

5/23/87  
1st re-examination

Int. Cls.: 16, 35, 36, 37, 39 and 42

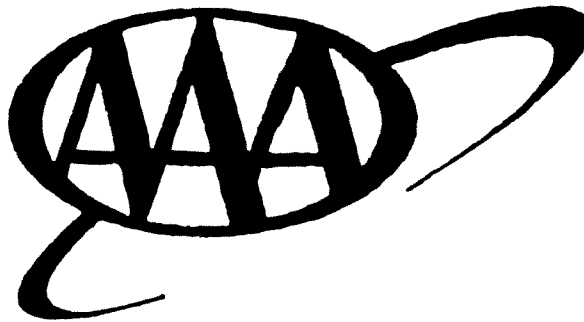
Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, 50, 100,  
101, 102, 103, 105 and 106

**United States Patent and Trademark Office**

Reg. No. 2,158,654

Registered May 19, 1998

**TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER**



AMERICAN AUTOMOBILE ASSOCIATION,  
INC. (CONNECTICUT CORPORATION)  
1000 AAA DRIVE  
HEATHROW, FL 327465063

FOR: MAGAZINES, PAMPHLETS, BOOK-  
LETS, AND DIRECTORIES IN THE FIELDS OF  
TRAVEL INFORMATION, TRAFFIC SAFETY,  
VEHICLE INFORMATION AND REPAIR, AND  
DRIVER INSTRUCTION; MAPS, GROUPS OF  
STRIP AND OTHER MAPS, AND PRINTED  
BOOKLETS AND PAMPHLETS FEATURING  
TOURING AND ROUTE INFORMATION, IN  
CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND  
50).

FIRST USE 3-1-1997; IN COMMERCE  
3-1-1997.

FOR: ARRANGING FOR DISCOUNT PUR-  
CHASES, IN CLASS 35 (U.S. CLS. 100, 101 AND  
102).

FIRST USE 3-1-1997; IN COMMERCE  
3-1-1997.

FOR: ADJUSTING AND COLLECTING IN-  
SURANCE DAMAGE CLAIMS; INSURANCE

BROKERAGE SERVICES, NAMELY, OBTAIN-  
ING INSURANCE, PLACING INSURANCE  
WITH UNDERWRITERS; FINANCIAL SERV-  
ICES, NAMELY, ISSUING, PAYING, AND COL-  
LECTING TRAVELER'S CHECKS; BANKING  
SERVICES, NAMELY, TIME DEPOSITS; IN-  
VESTMENT ADVICE COUNSELING SERV-  
ICES; CREDIT CARD AND AUTO LOAN  
SERVICES; REIMBURSEMENT FOR LEGAL  
SERVICES, IN CLASS 36 (U.S. CLS. 100, 101  
AND 102).

FIRST USE 3-1-1997; IN COMMERCE  
3-1-1997.

FOR: EMERGENCY ROAD SERVICES, IN  
CLASS 37 (U.S. CLS. 100, 103 AND 106).

FIRST USE 3-1-1997; IN COMMERCE  
3-1-1997.

FOR: TRAVEL AGENCY SERVICES,  
NAMELY, MAKING RESERVATIONS AND  
BOOKING FOR TRANSPORTATION, IN CLASS  
39 (U.S. CLS. 100 AND 105).

FIRST USE 3-1-1997; IN COMMERCE  
3-1-1997.

2

2,158,654

FOR: AUTOMOBILE CLUB SERVICES, NAMELY, RATING TOURIST ACCOMMODATIONS; PROMOTING PUBLIC AWARENESS OF THE NEED FOR TRAFFIC AND PEDESTRIAN SAFETY BY MEANS OF SPONSORING SCHOOL SAFETY PATROLS AND CONDUCTING TRAFFIC AND PEDESTRIAN SAFETY CAMPAIGNS; PROMOTING THE INTERESTS OF AUTOMOBILE TRAVELERS BY ADVOCATING LEGISLATION FAVORABLE TO SAFE AND ECONOMICAL MOTOR VEHICLE TRAVEL, OPERATION, AND MAINTENANCE; CONSUMER PRODUCT SAFETY TESTING AND CONSULTATION, NAMELY, CONDUCTING MOTOR VEHICLE TESTS AND ENDUR-

ANCE TESTS, AND MAKING TESTS OF AUTOMOTIVE AND RELATED PRODUCTS; TRAVEL ARRANGING SERVICES, NAMELY, MAKING RESERVATIONS AND BOOKING FOR LODGING, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 3-1-1997; IN COMMERCE 3-1-1997.

OWNER OF U.S. REG. NOS. 547,321, 1,784,437 AND OTHERS.

SER. NO. 75-263,673, FILED 3-25-1997.

ANDREW BENZMILLER, EXAMINING ATTORNEY

EXHIBIT 2 PAGE 18



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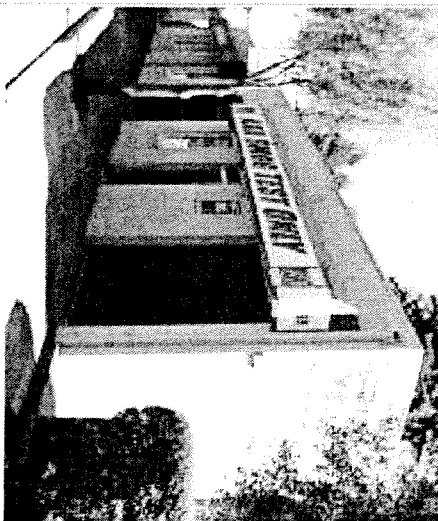
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